



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087689,721	08/12/96	PERRY	A

ANDREW M PERRY
2041 STATE STREET
SALEM OR 97301

F1M1/0415

EXAMINER

LOEBKE, R

ART UNIT	PAPER NUMBER
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3105

DATE MAILED:

04/15/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/689,721

Applicant(s)

Perry

Examiner

Renee S. Luebke

Group Art Unit

3105



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. This application is informal in the arrangement of the specification. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use. The following order or arrangement is preferred in framing the specification and, except for the title of the invention, each of the lettered items should be preceded by the headings indicated below.

- a. Title of the Invention.
- b. Cross-References to Related Applications (if any).
- c. Background of the Invention:
 1. Field of the Invention
 2. Description of the Prior Art.
- d. Summary of the Invention. This section may include a brief reference to the objects and advantages of the invention.
- e. Brief Description of the Drawings. Each drawing must be described separately and each figure should be identified with a separate number (i.e. the present application should have Figures 1-3 on the first sheet and Figure 4 on the second sheet.)
- f. Description of the Preferred Embodiment(s).
- g. Claim(s).
- h. Abstract of the Disclosure.

It is suggested that applicant refer to the recently issued, U.S. Patents cited herein.

Additionally, the specification is objected to because the figures should include reference numerals that are referred to in the Description of the Preferred Embodiment portion of the specification.

Further, the specification and abstract should be double spaced since the present presentation of the specification precludes amendments being made thereto. Any further prosecution of this application must include a substitute specification.

Appropriate corrections are required.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. 112, first paragraph, as failing to clearly describe the invention. Applicant has not indicated how the ring can "fit snugly around the shaft of a recorder" yet be large enough to slide past the larger portions of the recorder adjacent the shaft.

3. The claims are objected to because the lines are crowded too closely together, making reading and entry of amendments difficult. Substitute claims with lines double spaced are required. See 37 CFR 1.52(b).

4. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim 1 is narrative in form and replete with indefinite and functional or operational language. For example, applicant has not defined "sufficient" as used in the claim. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. Note the format of the claims in the recent patents cited.

It is further noted that on lines 1-2 of the claim, "the user's neck" should be -a user's neck- since "the user's neck" lacks antecedent basis (*the user* has not been previously defined in the claim).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Williams. The device of Williams comprises a ring 20 that has a sufficient inside diameter to fit a recorder and a strap 50 that suspends the ring from the neck of a wearer.

7. For applicant's future reference, it is noted that the sizing of an object to fit a given known item is generally seen to have been an obvious matter of design choice. In this regard, the size of a ring or the length of a strap is generally not seen to be patentable subject matter.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The device of Wimmerhoff-Caplan also comprises a ring and a strap. The devices of Sonderman and Schaiewitz each comprise a loop and a neck strap and are useable for a recorder. The devices of Carpenter and Bingham are further examples of rings that can fit a recorder supported on straps.

9. It is called to applicant's attention that if a communication is mailed before the response time has expired applicant may submit the response with a "Certificate of Mailing" which merely asserts that the response is being mailed on a given date. So mailed, before the period for response has lapsed, the response is considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on _____(date).

Typed or printed name of person signing this certificate

Signature_____

Date_____

Serial Number: 08/689721
Art Unit: 3105

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10. Any inquiry concerning this communication from the examiner should be directed to Mrs. Renee Luebke whose telephone number is (703) 308-1511.



Renee S. Luebke
Primary Patent Examiner
April 10, 1997